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7 *Attorneys for Defendants*
Unforgettable Coatings, Inc.,
8 *Unforgettable Coatings of Idaho LLC*

9 **UNITED STATES DISTRICT COURT**

10 **DISTRICT OF NEVADA**

11 JOSE ISMAEL ZUNIGA, on behalf of
himself and all others similarly situated,

12 Plaintiff,

13 vs.

14 UNFORGETTABLE COATINGS INC.;
15 UNFORGETTABLE COATINGS OF IDAHO
LLC; DOES 1 through 50; inclusive.

16 Defendants.
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Case No.: 2:21-cv-01221-JCM-VCF

**STIPULATION TO EXTEND DEADLINE
FOR DEFENDANTS TO RESPOND TO
PLAINTIFF'S COMPLAINT (EIGHTH
REQUEST) AND ESTABLISH BRIEFING
SCHEDULE**

19 IT IS HEREBY STIPULATED by and between Plaintiff Jose Ismael Zuniga, ("Plaintiff"),
20 through his counsel, Gabroy Messer, and Defendants, Unforgettable Coatings, Inc. and
21 Unforgettable Coatings of Idaho, LLC, ("Defendants"), by and through their counsel, Jackson
22 Lewis P.C., as follows:

23 1. Plaintiff filed his Complaint on May 25, 2021 in the Eighth Judicial District Court
24 of Clark County, Nevada, Case No. A-21-835257-C. The Summons and Complaint were served
25 on or about June 8, 2021.

26 2. Defendants filed their Petition for Removal of Civil Action from State Court on June
27 29, 2021.
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1 3. The parties previously stipulated to extend the deadline for Defendants on seven
2 occasions which were granted by the Court. ECF Nos. 6, 9, 12, 14, 16, 18, 21.

3 4. On December 21, 2021, the Court held a hearing and stayed Defendants' obligation
4 to respond to Plaintiff's Complaint. ECF No. 21.

5 5. On March 1, 2023, the Court issued an Order directing the parties to file a joint status
6 report regarding the status of the case. ECF No. 23. The parties submitted the joint status report on
7 March 8, 2023. ECF No. 28. Thereafter, the Court ordered that "within thirty (30) days from the
8 date of this order, either the parties shall file a stipulation dismissing this matter, or defendants shall
9 file responsive pleadings to Plaintiff's complaint." ECF No. 29.

10 6. Defendants' response to Plaintiff's Complaint is currently due April 12, 2023.

11 7. Following substantive discussions on multiple dates, the parties have determined
12 that it is necessary to brief the issue as to the effect on Plaintiff's claims in light of the Consent
13 Judgement entered in *Walsh v. Unforgettable Coatings, Inc., et al.*, Case No. 2:20-cv-00510-KJD-
14 DJA, ECF No. 202.

15 8. Defendants contends that the Consent Judgment resolved similar claims under the
16 Fair Labor Standards Act and resulted in back wages and liquidated damages being recovered by
17 the U.S. Department of Labor on behalf of Plaintiff and others. Plaintiff contends that the Consent
18 Judgment is not a bar to Plaintiff and his alleged class claims and certain damages. Resolution of
19 this issue will determine the scope of this case, and if so, help define the scope of discovery, and
20 aid in settlement negotiations. Plaintiff reserves all claims herein dependent on Defendants' Motion.

21 9. Therefore, the parties have stipulated to establish the following briefing schedule:

22 a. Defendants' Motion to Dismiss will be due on April 19, 2023.

23 b. Plaintiff's Opposition will be due on May 5, 2023.

24 c. Defendants' Reply will be due on May 19, 2023.

25 10. This request is made in good faith and not for the purpose of delay.

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11. Nothing in this Stipulation, nor the fact of entering to the same, shall be construed as waiving any claim and/or defense held by any party.

Dated this 12th day of April, 2023.

GABROY MESSER

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Attorneys for Plaintiff

Attorneys for Defendants

ORDER

IT IS SO ORDERED



U.S. ~~District~~ Magistrate Judge

Dated: 4-14-2023